



APPENDIX B

SUMMARY OF PUBLIC COMMENTS

PUBLIC HEARINGS

The Montana Department of Commerce (MDOC) provided two opportunities for the public and stakeholders to review the HUD-accepted 2013 Action Plan, giving the public and stakeholders an opportunity to comment on the creation of the draft 2014 Action Plan. The first public input meeting took place on May 22, 2013 at the Montana Housing Conference in Missoula. MDOC held a breakfast called the “consolidated plan breakfast” for 50 attendees, seeking comments on the 2014 draft. It was also conducted as a webinar for off-site participants. The second public input meeting was October 4, 2013 at the Montana Economic Development Association’s fall conference in Sidney, and was conducted as a webinar and conference call as well.

After receiving public comments from these meetings, MDOC staff then responded to them in preparing the draft 2014 Action Plan, which was released November 20, 2013. The final public hearing was on December 4, 2013, followed by a 36-day comment period, which ended January 8, 2014. Staff decided to extend the comment period because of the holidays, making sure that the public would have every opportunity to participate.

For the first public meeting, at the state housing conference in Missoula, the consolidated plan coordinator wrote articles about the consolidated planning process and the importance of public participation for the electronic newsletters of the following organizations: Montana Economic Developers Association (MEDA), Montana Association of Counties (MACo), Neighborworks Montana, and Homeward, Inc. The first two were new audiences for the consolidated plan.

For the three public meetings, the public was notified through large display advertisements published in up to 10 newspapers across the state. The newspaper ads summarized the contents and purpose of the plan and contained the web address where the full document was available. Complete contact information was provided to assist those persons otherwise unable to locate complete copies of the draft Five-Year Consolidated Plan and Annual Action Plan. The Consolidated Plan documents are located on MDOC’s website at: <http://housing.mt.gov/CP/cpdocuments.mcpX>

In advance of the May and October, 2013 public input meetings as well as the December 2013 final public hearing, notices were emailed to a distribution list of about 1,600 local officials, public agencies, interested citizens, and organizations statewide, encouraging them

to participate in preparing Montana's Consolidated Plan. Display advertisements were placed in up to 10 daily and/or weekly newspapers around the state asking for public comment, giving dates and locations of the upcoming public input meetings. Notices were posted on the *Discovering Montana* e-Calendar, and were also posted on the Consolidated Plan web page. In addition, information about the May meeting at the Montana Housing Partnership Conference in Missoula was printed in the conference brochure and on NeighborWorks' website, as well as MDOC's Housing Division's website.

Public (Input) Hearings				
Location		Date	Time.	# Attendees
Missoula	MT Housing Conference (and webinar)	5/22/13	7:30 – 8:30 a.m.	50 + 6 staff
Sidney	MT Economic Developers Association conference (and webinar)	10/4/13	7:45 – 8:45 a.m.	60 + 7 staff

HOME, CDBG, MBOH, and MDPHHS representatives were present at the meetings to answer questions and respond to public comments.

In addition to the two official public input meetings, the consolidated plan coordinator gave a presentation at the Water, Wastewater & Solid Waste Action Coordinating Team's workshop and webinar in Helena on October 17, 2013 to encourage participation in the final public meeting on December 4, 2013. (W2ASACT is a group of professionals from state, federal, and non-profit organizations that finance, regulate, or provide technical assistance for community water and wastewater systems.)

The draft 2014 Annual Action Plan was released for public review and comment on November 20, 2013. The public comment period was open through January 8, 2014. The comment periods were advertised in up to 10 daily and/or weekly newspapers statewide. Flyers were sent to the Consolidated Plan mailing list, and meeting notices were posted on the *Discovering Montana* E-Calendar and the Consolidated Plan web page.

A final public review meeting was held on December 4, 2013. Again, to encourage greater participation and to minimize travel costs for participants, this meeting, originating in Helena, was open to the public as well as being conducted in webinar format.

Public (Review) Hearings				
Location		Date	Time.	# Attendees
Helena	301 S. Park Ave. – Room 228	12-4-13	10:00 – 11:00 a.m.	15 + 11 staff

MEETING SUMMARIES

Copies of the meeting summaries from the public meetings are on file with the Montana Department of Commerce, Business Resources Division; 301 South Park Avenue; P.O. Box 200505; Helena, Montana 59620.

Summary of Public Comments

A variety of comments were received at the meetings, as well as some written comments. In general, the questions were program-specific. Some questions were able to be answered on the spot by representatives from the individual programs. Other questions requiring a more in-depth response were referred to the appropriate program staff for follow-up.

1. Question from Sheila Rice, NeighborWorks Montana

I have a question for the non-competitive CDBG home rehabilitation program. Would it be applicable to replacement manufactured homes? Some of the homes we work with, we don't want to repair. We want to take them out of the system, and we've used other funding for replacement, and I'm just wondering if that's a possibility.

MDOC RESPONSE:

The CDBG non-competitive program was not established as part of the 2012 Action Plan but will be implemented during the 2013 Action Plan year. Application guideline information was made available through an Administrative Rule Process and application guidelines were developed with that public comment considered. The replacement of manufactured homes is an eligible costs under the new program so long as there is an occupied unit at the end of the project.

2. Comment from Eric Amundson, U.S. HUD representative, Helena

I want to start off by saying thank you, and just a little observation on this comment period, I wanted to commend everyone for being here this morning. What we try to tell all of our grantees is that this is really your opportunity for your voice to be heard and it is, I think, somewhat unique among all HUD programs, because it's a chance for our stakeholders and our grantees to make their voice heard and then all of the concerns will be addressed by the Department of Commerce or the other grantees. So I'm very impressed. I commend the turnout this morning. I want to let you know that I was at another consolidated plan hearing in a different state and there were only two people who attended. I was impressed when I saw the turnout this morning.

MDOC RESPONSE:

Thank you for the positive comments.

3. Question from Lauren Clary, Kalispell:

I just wanted to get some clarification about what's going on with Section 8?

MDOC RESPONSE:

The HUD Section 8 Program received a 6% cut as a result of the 2013 federal budget cuts. We have been funding around 3,500 vouchers over the past several years. Budgeting for this reduction and after using some of our reserves we are going to have to lower the number of available vouchers by approximately 200. We are doing everything we can so we don't have to remove any families from the program but achieve this

reduction through attrition.

4. Question from Darren Larsen, Summit Independent Living Center, Missoula

For people who have low incomes, only making about \$710 a month, which is lower than the 40% average median income, are they on the waiting list? And, if so, how many of them? I would like to know how many people are on the waiting list and how many of them are very low-income?

MDOC RESPONSE:

All applicants are automatically placed on the waiting list at the time of application regardless of income. Only minimal income information is required until the applicant comes to the top of the list, at which time more information is provided to MDOC in order to qualify for the program. There are currently 12,000 applicants statewide. However, there is no accurate estimate of how many of those on the waiting list are very low income.

5. Comment from Jim Morton, Human Resource Council, Missoula

What we're seeing in rural areas are the tax credit projects that are now 15-20 years old, and RD projects that are 40 years old, and then there are requirements for new units. The rules that are overarching all those programs sometimes work against us, and I think that if we can have some state-level guidance and an opportunity to figure out how to move through those roles more carefully and efficiently, that would help all of us, especially in rural areas where the units are an asset to that community. There is no other space for many of those residents. Many of them have very low incomes, and are on Supplemental Security Income level. I would like to have a statewide summit.

MDOC RESPONSE:

MDOC's current programs can help with these issues, and can be discussed with the state and other housing advocates at the statewide housing conference to be held May 20-22 in Miles City. The idea of a statewide summit in addition to the annual conference can be explored.

6. Comment from Shyla Patera, Great Falls:

We have people who are looking for housing and finding an accessible unit is difficult. What I'm seeing in Great Falls is that a lot of people are coming back to Montana and then saying, "I need housing". They need it now. So they're staying in hotels and that just doesn't work. But it's really hard to provide emergency shelter. If that's not considered homeless, I don't know what is. A lot of the visibility and accessibility comments that have been mentioned in past years still remain. If we could find out who is on the waiting list, and work on some rural issues, and some small urban ones, that would be helpful.

MDOC RESPONSE:

In relation to the waiting list please see question #4 above. All of the housing programs consider geographical distribution, and serving rural and small urban communities will continue to be a priority.

7. Letter from Pam Bean, Montana Fair Housing, Butte:

I want to thank you for your efforts to ensure Montana Fair Housing (MFH) has an opportunity to provide comment on the State's Annual Action Plan, and of specific importance to MFH, the section addressing the Analysis of Impediments to Fair Housing

Choice.

MFH is very concerned about the content of this section. Perhaps if the State had contacted MFH in its efforts to draft this document, data and content would have provided accurate and complete information.

First paragraph of Section XII:

- MFH would encourage the use of the term disability vs. handicap. While MFH recognizes the 1988 FHAA uses the term “handicap,” disability has long been the preferred term and is actually the legal term used in state law (Human Rights Act and Governmental Code of Fair Practices) and in subsequent federal civil rights laws (ADA, etc.).
- In the state of Montana, it is a prohibited practice to discriminate because of Age, Marital Status, CREED and, for any public agencies, POLITICAL IDEAS. Creed and Political Ideas have not been referenced in the AI.
- MFH would strongly encourage reference to Title 49, (a) Chapter 3 of the MCA, the Governmental Code of Fair Practices, each section of which may apply to any branch, department, office, board, bureau, commission, agency, university unit, college, or other instrumentality of state government; or a county, city, town, school district, or other unit of local government and any instrumentality of local government, as well Title 49, Chapter 4, Rights of Persons with Disabilities.

Impediments to Fair Housing Choice

- Lack of knowledge of fair housing and fair housing law;
- Lack of sufficient fair housing outreach and education;
- Ineffective use of current system capacity;
- Lack of effective referral system;
- Confusion about fair housing, affordable housing and landlord/tenant issues;
 1. MFH believes these impediments could be addressed if the State made a more concerted and effective effort to coordinate activities with MFH.
 2. MFH conducts over 30 presentations and workshops each year for housing providers and consumers across the state;
 3. MFH's website is a valuable tool available for consumers and providers;
 4. The Action Plan fails to recognize MFH as a valuable referral for housing issues;
 5. If the Department had contacted MFH in preparation of this document it could have included the following information:
- MFH maintains for distribution an accessible housing list;
- MFH contacts the Cities of Billings, Great Falls, Missoula, Bozeman, Helena, and Kalispell monthly for copies of building permits issued to developers constructing covered multi-family housing. We then distribute to EACH developer and EACH owner information on accessibility requirements and visitability;

- MFH receives over 1,700 calls each year providing information, mediation, and/or investigation and enforcement services;
- MFH has a number of workshop models approved for credits through the Board of Realty. These models include one that specifically addresses the design and construction of covered multi-family housing;
- MFH provides information to organizations conducting home-buyer education to be distributed at these classes;
- MFH has a number of educational materials available for distribution, and places educational advertisements in newspapers each quarter, some monthly, across the state;
- MFH produces and distributes a quarterly newsletter dedicated to fair housing issues and cases;

"Disproportionally high denial rates for racial and ethnic minorities." If the State had contacted MFH prior to the production of this document, it may well have included MFH's efforts to conduct testing on a state-wide level analyzing the current occurrence of these activities. This is a special project MFH developed last year, and is currently being implemented. This project is not implemented on an allegation basis.

"Denial Rates disproportionately higher in lower-income areas, especially, American Indian lands;" - Statements of this type further perpetuate the confusion existing about fair housing. The Fair Housing Act does not apply to properties owned and operated by the tribes. The FHA does apply to properties located on Indian Lands (as that term is defined under federal law) and within established reservation boundaries that are not owned and operated by tribal authorities. For purpose of identifying impediments, it would be useful to cite the data sources on this issue and also useful to identify those Montana towns and cities that border established reservations or are located on Indian Lands since affirmatively furthering fair housing in those towns and cities would likely be best served in those areas without raising confusing jurisdictional issues. If the tribal properties receive federal funding Section 504 of the Rehabilitation Act will apply, addressing only disability-related violations and rights. In addition, 42 USC §1982 and constitutional guarantees prohibiting racial discrimination in violation of the 14th Amendment apply to a variety of land and housing transactions on any land located within the United States.

The AI contains a factually inaccurate, false statement that there is a "Lack of an organization receiving fair housing funding from HUD for outreach, education, testing or enforcement." Since 2010 and continuing through 2014, MFH has been and will be successfully conducting those activities pursuant to a FHIP Grant with HUD.

In regards to impediments omitted from this document, MFH would include that the state department providing services for persons with disabilities, DPHHS through its funding of Home and Community Based Services, may currently serve as an active impediment to equal housing opportunities. In certain instances, this agency may promote the steering and segregation of persons with disabilities needing supportive services to live independently, prohibiting housing choice and opportunities. MFH has been active for a year now in trying to address this matter.

In addition, the document fails to note the lack of any effort by the Department of Labor & Industry Building Codes Division to affirmatively further fair housing by reading and interpreting the International Building Code in a manner that is consistent with federal and state fair housing laws. The IBC Code Committee and HUD agreed several years ago that interpretation and construction of the provisions of the IBC must be consistent with the accessibility requirements of federal fair housing laws (and substantially equivalent state fair housing laws). After that agreement, HUD adopted regulations making the IBC one of the “safe harbors” for owners, designers and builders of covered multi-family housing. However, neither the DLI-Building Code Division nor local municipalities empowered to conduct their own building code enforcement appear knowledgeable nor even aware of that obligation.

It is also clear that a longstanding and serious impediment to furthering fair housing in Montana is the lack of state laws that are substantially equivalent to federal laws in terms of enforcement mechanisms and remedies available for persons whose fundamental rights to be free from unlawful housing discrimination have been violated. Although the fair housing provisions of our Human Rights Act were substantially equivalent from 1991 through 1997, legislative changes in 1997 eliminated that equivalency, resulting in a loss of protections for Montana citizens and residents and a loss of federal support to state fair housing enforcement (DLI – Human Rights Bureau) easily in the range of several hundred thousand dollars since the 1997 amendments. The net effect has been a substantial reduction in persons seeking assistance from any Montana state agency in enforcing their rights, a fact that is easily seen in a comparison of annual reports from the Human Rights Bureau before and after our state laws were amended to eliminate substantially equivalent enforcement and available remedies.

One further omission that warrants immediate comment is the general lack of state guidance to cities and towns in adopting zoning ordinances so that they affirmatively further fair housing and do not violate federal and/or state fair housing laws. Zoning activities are subject to fair housing and other non-discrimination laws. Too frequently, MFH has identified zoning policies and practices which are discriminatory on their face, as applied, or in the disproportionate adverse impact they have on persons because of disability, marital status, age, or other protected class characteristics. When advised of those deficiencies by MFH, some towns and cities respond quickly to try and correct the problems, but too often others resist changes that would reduce the likelihood of illegal discrimination in their zoning restrictions. As a result, and to ensure local practices are compliant with the law, MFH, with or for its supporting constituents, has had to take legal actions that have proven time consuming and costly for all involved. Lack of preventative action in this regard is an obstacle to assuring equal housing opportunity in our state.

Again, MFH is dismayed at the lack of quality and substantive content of the current document. We hope the Department of Commerce will significantly revise its findings, better support its statements by reference to accurate facts, and current research and data, on the issues rather than outdated, and possibly stereotypical, assumptions, and commit to working more closely with MFH in the future. Montana Fair Housing and its supporting constituents throughout the state look forward to such changes and a more constructive and cooperative relationship in the future that actually does lead to affirmatively furthering fair housing in Montana.

MDOC RESPONSE:

Language has been added to the 2014 Annual Action Plan identifying MFH as a housing resource, creed as a class protected from housing discrimination in Montana, and the term “handicap” replaced with “disabled” or “disability.”

The State’s current Analysis of Impediments (AI) was published in December 2009 as part of the five-year consolidated plan for Montana for the period of 2010-2015. The AI will be extensively reviewed and updated next year for the State’s next five-year plan. MDOC is committed to working with MFH as part of that process and the remaining comments will be included in that process.

8. Email From Dick King, PGK Enterprises, Missoula

I am a part-owner of a 12-unit apartment complex in Chinook. This property was built through USDA’s Rural Rental Housing Program and 11 of the units have rent assistance. My partner and I have owned this property since 1985 and we would like to sell it to a new owner that would continue providing affordable housing to the community. Due to IRS rules, however, we face a high tax penalty even if we sold the property for what is owed to USDA. This problem affects many other properties in the State, and unless these units can be transferred to new ownership, there is a clear threat that the supply of affordable housing in rural areas will decline. Sequestration has further exacerbated the problem.

We are working with the Summit Housing Group, based in Missoula, to address this problem. Summit develops and manages affordable housing properties in Montana, Wyoming, and Texas. A possible solution would be to create a pool of several USDA Rural Rental Housing projects, which would be sold to an investor. Low income housing tax credits would be included in the transaction. The goal of the effort is twofold: 1. To ensure that the existing supply of affordable housing rental units does not decline; and, 2. To put several properties under unified management, which would reduce administrative costs and ensure that the requirements of the USDA Rent Assistance program and the LIHTC program are met in full.

To date, we have a tentative pool of projects with a total of almost 300 units, of which 80% are rent subsidized. In addition to Chinook, these properties are located in Havre, Harlem, Malta, Fort Benton, Big Sandy, Shelby, Whitehall, and Townsend.

I submit these comments to 1) make sure that the DOC Consolidated Plan recognizes the importance of the USDA Rural Rental Housing Program; 2) To start a discussion regarding the possibility that some funding from the State’s CDBG program could be used to help facilitate the transaction discussed above.

Thank you for the opportunity to submit my comments.

MDOC RESPONSE:

The programs listed in the Consolidated Plan encourage participation and leverage from all eligible sources including USDA Rural Development Rental Housing programs to make projects more affordable and serve all rural Montana communities according to each programs requirements. MDOC programs regularly work with USDA Rural Development on many projects and MDOC intends to continue the cooperative relationship. MDOC uses CDBG funds to meet the National Objective of serving low-and moderate income

households, while meeting the regulatory requirements which are outlined in the CDBG application guidelines and grant administration manual. MDOC uses the Montana Administrative Rule Process to clarify the eligible CDBG uses within the guidelines and manual to ensure that each funded project to meet the regulatory requirements, including refinancing.

9. Question from October 4, 2013 Meeting in Sidney

How many CHDO's are in eastern Montana?

MDOC RESPONSE:

There is currently one CHDO, Action for Eastern Montana. The Department opens up its certification process annually for other organizations that may be interested in becoming a CHDO.

10. Comment from Billie Lee, Lake County Community Development

MDOC should consider whether housing applications really have to go through CHDO's – a lot have decided to de-certify.

MDOC RESPONSE:

HUD regulations for the HOME program require that a certain portion of grant funding is awarded to CHDOs. For the CDBG Housing Non-Competitive Program, eligible applicants must work with CHDOS in order to demonstrate the grantee has the capacity to meet federal mortgage requirements, which is part of CHDO certification.

11. Questions from Michael O'Neil, Montana Home Choice Coalition, Helena

With funding cuts and sequestration, how much is the current level of HOME funding down from historic numbers?

Last year, AWARE was approved for CEBG-ED funding, but then the approval was rescinded. At the time, AWARE was told the money was being sent to eastern Montana. So this year, we'd like to know if there are any geographic restrictions to funding?

Historically, funding levels have been scarce, and any reduction in funding is negative. Reduction in funding has a very negative impact on communities across the state of Montana. The historic funding level never came close to meeting the needs in the state. I would encourage you to note this impact in the Action Plan. Lower funding means less affordable housing with Section 8 vouchers, etc. These are programs that need more funds, not less. What is your current funding level compared to past funding? It's down from \$6.3 million?

We also encourage an interest in the CDBG Housing Noncompetitive Program. The easier you can make the program, the better. Finally, commenter requested the contact information for the Emergency Solutions Grant program in communities around the state. Specific local agency, agency contact name, phone number, and email address would be ideal.

MDOC RESPONSE:

HOME Program funding for Montana is down about one-third from past years. The FFY 2014 allocation represents a \$17,000 increase from FFY 2013.

There has never been a preference for CDBG funding for any geographic region in the state, and there was no award of any CDBG-ED funds to AWARE by the Department. During the 2013 plan year, when there was not sufficient interest in CDBG-ED funding to fully award all available funds, the Director reallocated the remaining funds from CDBG-ED to CDBG Housing and Public Facilities in order to address the higher interest in those areas of the program, particularly from those communities seeing significant rapid growth resulting from oil and gas development. The Director retains the discretion to reallocate unused CDBG funds between programs during the plan year.

Funding levels are determined by the annual federal budget for HUD and its Community Planning and Development programs. The MDOC provides three categories for applications: Housing, Public Facilities, Economic Development, and planning within each of these categories. Allocations for the CDBG program have varied each year (\$5.9 million – 2013, \$5.4 million – 2012, \$6.2 million – 2011). The Department distributes funds between eligible categories based on interest and need in those categories.

HOME program funding levels have significantly declined during the past four years as shown in the following comparison (Source: U.S. Department of Housing & Urban Development):

Funding	FY 2010	FY 2011	FY 2012	FY 2013
Montana	\$6,307,952	\$5,541,150	\$3,890,397	\$3,863,042
Total HOME Funding	\$1,813,568,921	\$1,598,131,084	\$1,004,182,944	\$973,117,941

Thank you for your interest and comments about the new CDBG Housing non-competitive program.

DPHHS RESPONSE:

The program description as well as program policies can be found in the DPHHS ESG Policy Manual at: <http://www.dphhs.mt.gov/programsservices/energyassistance/index.shtml>
The left-side menu contains the Emergency Solutions Grant Policy Manual. Below is a list of ESG contacts at the Human Resource Development Council (HRDC) offices across the state.

ESG Contacts				
Agency	Contact	Phone #	Email	City
Action for Eastern Montana	Connie Smith	406-377-3564	c.smith@aemt.org	Glendive
DIV HRDC Havre	Diane Savasten Getten	406-265-6743	savastend@hrdc4.org	Havre
Opportunities Incorporated	Kim Reynolds	406-216-2300	kimr@gfoppinc.org	Great Falls
DVI HRDC Lewistown	Vanessa Adams	406-535-7488	vadams@hrdc6.org	Lewistown
DVII HRDC Billings	Christy Kramer	406-247-4741	ckramer@hrdc7.org	Billings
Rocky Mountain Development Council	Joe Wojton	406-442-7000	joegodslove@bresnan.net	Helena
DIX HRC Bozeman	Sara Anderson	406-585-4884	sanderson@hrdc9.org	Bozeman
CAP Northwest Montana	Cassidy Kipp	406-758-5419	ckipp@capnm.net	Kalispell
DXI HRC Missoula	Kate Jerrim Ybarra	406-532-8256	kmj@hrcxi.org	Missoula
DXII HRC Butte	Elissa Mitchell	406-496-4904	elissam@bresnan.net	Butte

12. Comment from Bob Buzzas, Montana Continuum of Care Coalition for the Homeless:

The Continuum of Care would like to propose three changes that are really more for reference purpose than anything else. So this is just kind of an FYI. We'll have comments to you by the end of the month. The first is that CoC is working on adopting a 10-year strategic plan, and we'd like to include a short summary for reference in the Annual Action Plan. The second is that the CoC is responsible under the Hearth Act for assessing the Emergency Solutions Grant.

MDOC RESPONSE:

MDOC received no further comments from Mr. Buzzas, but is committed to its continued partnership with the CoC Coalition for the Homeless.

13. Comment from Heather McMilin, Homeward, Missoula

Commenter requests training or dialogue with the State about how to implement the new HOME rule.

MDOC REPSONSE:

MDOC plans to do training on implementation of the new HOME rule, and will publish advance notice of when and where the training will occur.